IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Crl.MC.No. 3339 of 2007()

CC.587/2006 of JUDL.MAGISTRATE OF FIRST CLASS-III, PUNALUR

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PETITIONER: ACCUSED

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1. SHAMNAD, S/O.BASHEER KHAN SAHIB,
   SHA NIVAS, KUNNIKODE, PATHANAPURAM.

2. MUNEER, S/O.KOYAKUTTY, MOOMINA MANZIL,
   KUNNIKODE, PATHANAPURAM.

3. AJEEB, S/O.MOIDEENKUNJU RAWTHER,
   MEMENAZHIKATHU, KUNNIKODE,
   PATHANAPURAM.

4. ANAS, S/O.ALIKUNJU, NIZAR MANZIL,
   KUNNIKODE, PATHANAPURAM.

5. MOHAMMED SIYAD, S/O.ABDUL RASHEED,
   PEEDIKAYIL VEEDU, KUNNIKODE,
   PATHANAPURAM.

BY ADV. SMT.VIVEEJA RAVEENDRAN

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
   KUNNIKODE POLICE STATION,
   PATHANAPURAM.

BY PUBLIC PROSECUTOR ADV.SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.3339 Of 2007

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Dated this the 1st day of November, 2007

ORDER

Petitioners face indictment in a prosecution for offences punishable, inter alia, under Section 427 read with 149 I.P.C. All offences alleged against the petitioners are bailable. The petitioners appeared before the learned Magistrate and were released on bail on 22.7.06. Consequent to non-appearance of the petitioners on the next posting dates before the learned Magistrate, the learned Magistrate has issued non bailable warrants to procure the presence of the petitioners. Such warrants of arrest are pending from 17.03.07. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The absence of the petitioners earlier was not wilful. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances, appropriate directions may be issued under Section 482 Cr.P.C, prays the learned counsel for the petitioner.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such applications on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

5. In the peculiar facts and circumstances of this case, there shall be a direction that the warrants of arrest issued against the petitioners shall not be executed till 12.11.07. On or before that day, the petitioners can appear before the learned Magistrate and seek regular bail.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE